Wednesday Oct 6

This morning I went up to talk to J. Boyd about a decision I'm writing in Magill v. State. Before I could start, he invited me to come down to his beach house on Sunday for a Lion's Club outing. He asked if I had thought any more about joining the Lion's Club. He then ~~adequa~~ soliloquized for about half an hour about how I should get out, join clubs, run for political office in order to become well known. He kept harping that its better to be well known than one of the "faceless, nameless masses." I listened politely, wondering if I ever will go in private practice but at the same time reasserting to myself that there are other things in life ~~wa~~ that are more important than being a successful lawyer or politician.

At 9:30 oral arguments were held for Theodore Bundy's case. I walked in the back door just as the judges were entering from the other side, emerging from behind the curtain. The seats were jam packed with spectators with about 40-50 other people standing along the back + side walls.

Boyd had expressed to me grave doubts about upholding the conviction. He finds the evidence to be very weak. Bundy's attorney was quite forceful + effective, stressing the inadmissibility of the ~~te~~ testimony of the sole surviving victim because of undergoing hypnosis and the business of the expert who testifies on the bite mark evidence. Without that evidence, the conviction can't stand.

Dave Gauldin, whom I went to law school with, ~~sat~~ sat by himself + argued for the state. He is an offbeat person. His hair was wavy + hanging way over his collar, almost down to his sholder. He wore a plaid jacket. (He usually wears tennis shoes, even with ~~~~ blacks + jackets, though I couldn't tell if he were wearing them today) His sholders were hunched over, + he almost appeared to be hunchbacked.

At the end Alderman pressed Bundy's attorney why he didn't argue about the sentence. Alderman ordered him to submit a supplemental brief.

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Monday, January 3, 1983

I'm afraid I haven't been diligent in keeping this journal current. There are a ~~cou~~ couple of things I want to mention.

The first concerns the recent appointment of Judge Shaw to the bench. Unlike last year, there was very little speculation & gossip about the pending appointment. However, Boyd ~~did~~ told me that J. Overton & J. McDonald wanted Gov. Graham to appoint Judge Letts and had actually communicated that desire to him. ~~Boyd thought~~ After the appointment, Boyd told me that one of the reasons Gov. ~~Gr~~ Graham probably didn't appoint J. Schwartz was that Schwartz had a very egocentric & haughty personality. Brian, the librarian, confirmed this impression. Brian also ~~taught~~ me told me that Shaw was definitely the nicest of the three candidates. The Monday after the appointment I met J. Shaw while C.J. Alderman was showing him around. I was very impressed by ~~th~~ his friendliness. Shaw is a big man about 6'4" although he's not as tall as Sundberg he seems bigger. He has huge hands with a mammoth gold wedding ring. He's also a very bright guy.

Another thing I wanted to mention was J. Boyd's health. He told me just before Christmas that he had a sore throat the last couple of months & had been to three different doctors. Recently we've been having lunch quite often. Boyd insists upon walking around to the north entrance of the capitol so that he won't have to walk up the steps on the west side.

On Monday, Dec. 20, he called me at home to tell me I could leave early for Tampa if I wanted. He said he'd been to the doctor that afternoon & his blood pressure was high. He went back to the doctor Tuesday morning and went home right after conference because he wasn't feeling well.

When I left Wednesday (Dec. 22) & came back Saturday (Jan 1). When I saw J. Boyd today, he seemed a lot perkier. He said he was feeling a lot better. He bragged about his son Jim, a CPA, who became the accountant for Tropicana.

Thursday, Jan. 13, 1983

This morning, I arrived in the parking lot at the same time as Justice Boyd. He asked to see my new (used) car. When I told him that it had over 100,000 miles on it, he said not to worry that his Cadillac had 91,000 + ran better than the new cars he's gotten.

He invited me to come upstairs. When we entered his office, he told me that he was writing a book on politics. He said that after writing a chapter on politicians at funerals, he went through and ~~replaced~~ struck out the word 'funeral' everywhere and replaced it with wedding. He said that since if people read about politicians at funerals, they would be shocked + probably wouldn't bother reading his book. ~~I asked him~~ He said that he wrote about how at a big wedding a politician works the crowd quietly and unobtrusively, greeting at least 1500 people. I asked him if he really did do this at a funeral and he said yes. He said that when he was a county commissioner, all the commissioners would ~~try to~~ want to leave the meeting to go to any funeral of a local bigwig to have their picture taken + to greet people. Only 4 could go, however, since 5 would have to stay to maintain a quorum. He said one by one, each would slip quietly away. He said that one should go to the funerals of his enemies so that people there would think that any differences one had with the deceased was political and not personal.

Last Monday, the investiture service for J. Shaw was held. It was a lot nicer, mainly because it was a lot shorter, than the one last year for J. Ehrlich. ~~After the opening prayer.~~ There weren't as many people present, although the seats were full + people had to stand along the walls. Some pews were reserved for the justices' wives, ex justices + DCA judges. Graham came 5 minutes late.

There was an opening prayer + the presentation of certificate. What kept the ceremony short was C.J. Alderman's presentation. He said that he ~~wasn't~~ noticed a lot of distinguished guests in the audience, but explained that he wasn't going to mention any of them because it would take a long time + he would be bound to overlook someone. Three friends of Shaw gave short speeches before he got up + took his seat. Unlike Ehrlich, Shaw stood up while he delivered his speech.

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He said that when hearing all the nice things being said about him, he was reminded about a woman hearing the eulogy at her husband's funeral. After the preacher had spoken for a few minutes, the woman poked her son & asked him to check the casket to make sure it was his father they were talking about.

At the end of his speech J. Shaw said that already J. Ehrlich had playfully reminded him that he was the junior justice and would have to hold the drapes as the justices emerged. He said even so he was looking forward to his job.

C.J. Alderman looked up and said: "I take it J. Ehrlich hasn't yet told you about the mop & bucket."

Only time I've known him to ~~[illegible]~~ crack a joke.

Later in the morning J. Boyd & I went around & gave (or left ~~[illegible]~~ in the office) each justice a copy our history with the 4 page supplement stapled on the back. The supplement mentions Shaw's appointment and contains information about the Court's Clerks, Marshals, Librarians and ~~[illegible]~~ State Courts Administrators.

Sunday, Jan. 23

Last Tuesday, I was in the library when Jo Dowling told me I had a phone call. It was Nancy telling me J. Boyd wanted to talk to me. He asked if I had taken a copy of our article over to the Deputy Commissioner of Education, Mr. Whitten (sp?). I told him that it had slipped my mind. He asked me to get a copy over quickly because the deadline for publishing Allen Morris' Handbook of Fla. J. Boyd was under the impression that we could get it published by them. He said that he'd call over & tell the Deputy Commissioner that I was on my way over. J. Boyd thought ~~they~~ he might be more impressed if an attorney instead of a messenger brought a copy over. He also wanted me to drop ~~off~~ off a copy for Mr. Turlington. So I grabbed two copies & walked across the street. As I walked in Mr. Whitten's office, he was talking to J. Boyd. When he hung up, he told me that they would be glad to distribute copies of our article but didn't have enough money to publish it.

When I came back, I went upstairs to talk to J. Boyd. He was in the process of dictating a letter to Nancy, asking the Univ. of Miami Law Review if they could publish extra copies. ~~[illegible]~~ In doing so, he ~~[illegible]~~ would [illegible]

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After he would strike whole sentences + ¶'s. I always feel sorry for Nancy when he tries to dictate, because he just rambles on.

As he was doing this, I was getting a little anxious because I wanted to leave early (4:00) to take Sondra to a dance competition. Then Tony Shifley, the Marshal, came in with our W-2 forms. J. Boyd told us how Tony once saved him 4¢ because his 1st pay check was less that amount. Then Tony started launching in how he was tired of trying to save the Court money. He mentions how some machine had stood unused in Court Administrator's office for a couple of months. Tony wanted to call a mechanic. Tony said he fixed it himself. He seemed quite irate. He said "Don't get me on this because I just got through discussing a way of saving the Court money, but they said I can't do it that way." He went on + on, using the words "hell" + "damn" quite a bit. Nancy had a stoic unpleased look on her face.

Then Tony said he couldn't understand why J. Boyd put up with so much bullshit when he could retire + make as much as he's making now.

Then J. Boyd started getting into his spiel about how he wanted to outlast the Askew boys.

About 4:00 I got up quietly, slipped through Jim's office, telling Jim I was making a quick exit.

Mon. Jan 31 –

Today I answered the phone when Roger Schwartz, J. Boyd's former Research Aid, called. Schwartz wanted to let J. Boyd know that he was happy working for a utility co. in Virginia. I told him that I was working on the history of the court & we began talking about the Mason memo. Schwartz told me that J. Boyd came in his office + said that "Somebody dropped this off at my house. Check it out." Schwartz said he discovered two things; 1) the memo wasn't part of the record + 2) it was absolutely correct. Boyd asked Schwartz to draft an opinion along these lines. Later he asked Schwartz to draft an opinion with the opposing view + go that way. Schwartz said he felt Boyd was influenced by the memo's presence + intentionally

decide to go the other way. He said the shock came when Dekle circulated a dissent that was identical to the memo.

He said he got a lot of flack about being outspoken. He said that people wrote him + a couple of other aides off as brash young lawyers. He said it was harder for them to discredit the circuit judge who complained McCain ~~was~~ trying to influence his decision. Schwartz thought McCain + Dekle were the bad apples.

He explained that J. Boyd was always on the outs because most of the judges were North Florida types who regarded anything from Miami as "sinful."

He said that the only one he thoroughly trusted was Justice Ervin, likening him to a Black or a Douglas. He said that Ervin was attorney general when the state tried to prevent a black from going to law school. Schwartz said he tried kidding him about it once saying, "How could you put your name on it."

Ervin somberly replied "Roger that's one of the darkest spots in my life."

Schwartz said he wanted to tell Ervin he was only kidding + to "lighten up."

Schwartz struck me as a very pleasant fellow.

Mon. Feb. 21 –

Last Wednesday J. Boyd invited me to have lunch with him and Phil Vetterlein. I was surprised he was having lunch with Cap. Sattherlen so soon after their last luncheon. We went to ~~to~~ the 11th floor of the Capitol where Boyd bought both of our lunches. On the way over Boyd asked Phil what standards were used in accepting applicants. The conversation evolved to a discourse on the low correlation between how well a person does in law school to how well that person does after graduation.

When we got back to the office, J. Boyd delivered a sermon about how abortion upon demand is "wrong, wrong, wrong." He likened a wife getting an abortion without her husband's consent to a breach of contract. But when I mentioned that argument wouldn't apply to a single woman or a married woman who had her husband's consent, he acknowledged that wasn't his only reason against abortion.

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Today J. Boyd called me 1st thing in the morning + swore me to the strictest of confidence. He said that his daughter, Jane, had taken the LSAT + was applying to several law schools, including F.S.U. He said that he wasn't going to try to influence any decision but that he did query Prof Sutherland about admission criteria, so he could assess what her chances were.

Later in the afternoon he told me that only he, his wife, + I knew about Jane's decision. He said he told me so that I wouldn't act surprised if anyone from F.S.U. mentioned her applying.

Last Monday Nancy called me at 4:00 + said that J. Boyd wanted me to come up to talk. Since he usually just talks to me over the phone I immediately suspected that a surprise birthday party was in store. When I reached the office, I heard J. Boyd practicing the harmonica. He played Happy Birthday while Nancy + Jim sang along. I was quite pleased. Nancy had bought a Publix chocolate cake with whipped cream icing.

Friday March 1

One day last week I was ~~performing a~~ using West Law (computer research) when I overheard Justice Adkins ask Jo Dowling where the St. Pete Times was. She explained that ~~it was in~~ she delivered it to the Chief Justice's office every morning except for the Sport section. Adkins said he knew that happened when Sundberg was chief justice, but was surprised the practice was still going on. He said, "I guess that goes to show this Court is still taking its directions from Dyke [the editor of the St Pete Times]." + chuckled.

Last Friday there was an organizational meeting of the Florida Supreme Court Historical Society. Delphene Strickland seemed to be the one running it, though she didn't seem to be very aware ~~[illegible]~~ of that fact. She acted as though the mere expressing of ideas would accomplish them. Mrs. Adkins took the lead by stating that the first thing we would have to do is ~~hold an organizational meeting~~ ~~to~~ agenda ~~meeting~~ an annual ~~[illegible]~~ membership meeting. After much discussion we settled on May 2, which would coincide with Law Week.

The rest of the time was taken up about serving refreshments, though nothing specific was planned.

~~As we ...~~ I was made temporary treasurer & several people wrote out checks for their membership fees. This small amount is to be used to pay for the refreshments at the meeting.

As everybody was leaving, I said that it would be important to have an agenda for the 1st meeting, so that it wouldn't be wasted by rambling on. So a date was set for March 21 for another meeting to plan the annual membership meeting.

The meeting was originally attended by Justices Overton & Adkins. However they both left soon after it began. Sid White was there for a little while, but missed most of it while trying to find out when Spring Time Tallahassee occurred. He did this at Mr. Strickland's request, so as to make sure our meeting date would not conflict.

Last night J. Boyd called me at home to see if I could join him & his daughter Jane for lunch. Today he came to the office around noon with Jane & his wife. He came & got Nancy, Jim & I & the six of us drove to the Capital City Country Club for lunch. We sat at a window table which had a beautiful view.

J. Boyd & Ann dominated the conversation with little anecdotes, stories & jokes. (On the way over they kept interrupting each other to tell ~~...~~ Jane how & where to drive.) Jane got to talk a little about her work ~~managing~~ a ~~...~~ meal program for a retirement community in a suburb of Chicago.

Two stories I wanted to be sure to remember.

Ann said that while she & Jane went down to Miami, J. Boyd stayed here with Ann's mother, "Mammy." ~~...~~ After dinner one night J. Boyd said he would wash the dishes. Ann said he doesn't know how to operate anything mechanical in the house except for the vacuum cleaner. He loaded the dishes into the dishwasher & ~~...~~ grabbed the liquid soap used to wash the dishes in the sink, not knowing that the dishwasher soap was

in the cabinet underneath. He coulda so that the liquid would drip out from the soap compartment, so he sprayed it over the dishes + turned the dishwasher on. Pretty soon suds came flowing out all over the floor.

After cleaning up the mess, he figured the only way to get the soap out of the dishwasher was to have it wash out. So he tried running it a couple of more times, ~~the~~ which only caused more suds. Finally he took the dishes out + rinsed them by hand, and sopped up the suds in the dishwasher with a towel.

Ann told the second story also. She said in the winter of 1970 J. Boyd wanted to go look at some land near Havana, even though it was snowing out. He, Ann + Jim ~~drove up there~~ (their oldest son) drove up there. Ann stayed in the car while J. Boyd + Jim went walking in the woods. After about an hour she tried honking. She got out + walked down a road a short ways + yelled. She was reluctant to leave in case they returned. She finally flagged down a car with two couples in it. But it turns out one of the men had just retired from being the Fulton County Clerk + knew Justice Boyd. They got a trooper who came + tried using his siren. He called for help then went into the woods.

Another patrol car from Quincy with four men in it + drove up. Finally the 1st trooper came back with Joe + Jim behind him.

J. Boyd explained that when they walked into the woods, they came to a stream which they followed. Because ~~the~~ it was rough going on the side they were on, they crossed it to come back on the other side. Problem was they got diverted because the stream had a fork in it + they came back ~~the~~ along the wrong fork.

After lunch I walked down with Anne to show her the law school.

Friday March 18

This morning Barbara Yates (McDonald's aid) asked me what I thought about Jim Logue's getting married. She was surprised when I told her I didn't know anything about it. She told me that she heard from Nancy that J. Boyd married Jim + his girlfriend in the office yesterday afternoon.

I later asked Nancy about it. She confirmed the story, stating she knew about it only because she happened to be in the office at the time. The woman's name is Alice. I met her once before at ~~a~~ an office party at J. Boyd's beach house a couple of years ago.

Monday March 21

This morning J. Boyd buzzed me + said "Hang on to your seat, I've got some shocking news. Jane got accepted to Nova University Law School." He was very affected.

After work we had another organizational meeting of Supreme Court Historical Society. Again a lot of time was wasted. However, much more was completed. I took a more assertive role this time. We've agreed to reduce fees to $10.00 and to elect board of ~~the~~ trustees at first meeting. Also the agenda was set pretty much along the ~~line~~ format I suggested.

Thursday, April 14

Last Friday Jim handed me the briefs in the Bundy case + asked me to draft parts of an opinion on 6 of the 12 issues. I began work on Monday fascinated by fact of the case's interest and possibly importance.

On Tuesday I discussed the case with Justice Boyd + Jim. The big issue is the use of the testimony of a witness who had been hypnotized. Boyd seriously questions the sufficiency of the evidence in the record. However, Jim points out that because of the statements . . .

Sunday April 17 (cont.)

made by Bundy before + after the trial, which weren't part of the record, it's pretty obvious that he was the one who committed the crime. Boyd said he had serious doubts about the sufficiency of the evidence + that the justices were divided. He indicated that Adkins + (one other justice) didn't believe a witness who has been hypnotized should be allowed to testify. Jim tries to explain how this case is different than most in that the prosecutor

didn't rely on any evidence that came from hypnosis, but that hypnosis did not affect the witness's ability to testify about her independent recollection.

I pointed out there was a bigger problem with the sufficiency of the evidence concerning the assault on Dunwoody Street. I believed that Bundy had a good point in arguing that the separate crimes should not have been joined together since they were not part of the same transaction. I suggested that maybe the court should reverse the convictions for the Dunwoody assault since there was ~~no~~ prejudice in allowing evidence about the ~~the~~ Chi Omega murders. But this would also jeopardize the murder convictions, unless the Court could hold that evidence of Dunwoody crime was harmless.

Boyd said the best thing to do ~~was~~ was take the stance there was no error, & then add if there were it was harmless.

On Wednesday I went to lunch with Justice Boyd & Professor Phil Southerland. We went to the 10th floor snack bar. Midway through the meal, Boyd invited two other persons to join us.

Back at the office . . .

Monday April 18 (cont.)

Phil mentioned that there was a rumor that the new addition to the law school would be named the ~~after~~ Virgil B. Hawkins Building, after the black person who the Court, under B.K. Roberts' opinion, would not allow to go to law school.

At one point Justice Boyd actually referred to ~~the other~~ some of the other unnamed justices as "sons of bitches" because of passing him over for Chief Justice.

On ~~Thursday~~ Thursday morning, I got in a few minutes after 8. Justice Boyd was already there which was unusually early for him. We talked about the hypnosis issue in the Bundy case. This lead him to relate the McBride Murphy story about a woman who under hypnosis exhibited the personality of a long deceased Irish woman. He then, under the strictest of confidence, told me that ~~at~~ after his father's death his family was discussing what to do with the house. The moment they decided to sell the house, they heard the screen door slam

and steps in the hallway. When they looked there was nothing there.

Later Justice Boyd & his wife went to see a spiritualist where they saw all kinds of ghosts & spirits. Boyd said that what impressed him was the spiritualist's mentioning the fact that his grandfather wore his Sunday suit on Monday, an eccentricity, Boyd claims, he had never told anyone.

Sunday May 8 —

I was gone to D.C. and New York a week ago so I missed the meeting of the Fla. Supreme Court Historical Society on May 2. When I got back, I heard a lot of people showed up but only 22 people signed up as members. All the justices (except Shaw) were there. At the Bd. of Trustees meeting Delphine Strickland railroaded through her suggestions for officers.

Yesterday there was an office party at Justice McDonald's for the justices, secretaries & research aides. Only secretaries who showed up were Heath Armstrong & Pat Kidd. Only Justices were McDonald, Overton and Alderman. About ½ the aides were there. Everybody was in a very congenial mood.

Tuesday June 21

I have been a little lax in keeping current with this journal. There have been a lot of things that have happened or that Justice Boyd has said within the last month, which have made an impression upon me but which I neglected to record.

Today, however, may have been the biggest event. Boyd called me up to the office. After making sure no one else was in the office other than him seated in a chair across from Boyd's desk. Nancy, who had just come out of his office, sat down at her desk while I walked.

Boyd said he had something confidential to say & emphasized several times I should never say a word to anyone. After receiving my assurances, he told me that he had malignant cancer.

He explained that when he was operated on a week & half ago to have polyps removed from his nasal cavity, the doctors discovered he had bone cancer. He said they couldn't tell how widespread it is and that he probably would be going to radiation treatment.

He said he didn't want anyone else to know since there was some members on the Court who would leak the news to the press & would pressure him into resigning. He said he wants to delay any announcement until latest moment possible. He told Jim & I that we may have to work harder, to pick up the slack so that we can be caught up. He said that he would do as much as he could – He told us how he read the records of three death penalty cases at home last week despite the pain he felt from his operation.

He told us he found out when his wife started getting ~~.~~ impatient with him when he was talking to J. Shaw over the phone because of being late to a Dr.'s appointment. He said she acted upset and insisted on driving. As they left the carport, she told him the doctor said it was malignant cancer. Boyd claims he acted nonplussed. When she queried why he didn't act upset, he philosophically replied that he wasn't the first person to have contact and that he wasn't afraid of dying. He said he's found solace in the Bible.

Yesterday J. Boyd took me to lunch at the cafeteria in the basement of the Capitol. He began telling me about how irritated he was at J. McDonald for what McDonald said at the Bar convention in Orlando last week. He said they approached some people & McDonald introduced him as the clown of the Court. Boyd said he told Vitti Davis & speculated that she would relay the story to Justice Alderman. J. Boyd also said that when he introduced some people to J. McDonald, McDonald said "You don't have to introduce me to people Joe. I know just as many people all over the state as you."

Boyd also told me that McDonald hardly ever let an opinion of his go by without having to make some comment. Boyd thinks McDonald tries to discredit him every chance he gets, because he ~~doesn't~~ wants ~~Boyd~~ to be the next Chief Justice & is afraid that Boyd might get it.

Rec… meeting

I'm retrospect these seem strange to me. Justice McConnell was exceptionally friendly to me at his party. Then on Sunday June 5, Sandra & I saw him at Ruby Diamond Auditorium for the preview of West Side Story. He waved & smiled. Later that week he came to my office & invited me to a party at his home on Saturday June 11, for his son who is soon to be married. Although I was flattered, I didn't go.

Thursday June 23

Yesterday morning I talked with Nancy about Justice Boyd's office. She said that she knew a week before because she was answering the doctors' calls. I mentioned that he seemed to be taking it really well. She responded that it was hard to tell with him because there were so many layers of masks he had. She said that she thought he might be overly dramatic, but that she became more concerned when she found out how upset Mrs. Boyd was. Now she doesn't know if Justice Boyd is maybe pretending not to be as worried as he really is. I agreed that it is hard to tell. His approach is so cavalier, I'm not sure whether he's actually feeling good but trying to be dramatic or whether he's masking his true feelings.

I mentioned how he sometimes acts the same way about being chief justice, how he seems to really want it but at the same time keeps acting like he doesn't want to be bothered by the extra work. She said don't be fooled by that, that he really wants to be chief justice.

She then told me that he went to see all the other justices individually about it yesterday. She said that after conference she noticed Boyd went in to Alderman's office. She thought maybe he was telling Alderman about his illness. He came back to his office, and then went to see another justice. She said she was really surprised when she saw him enter Justice McDonald's office. She said he never goes there. She again assumed he was telling all the justices then.

When he returned, he called her into her office & told her that he had asked each of the justices how they stood on his ever becoming chief justice. He told each of them that if he was going to be elected he wanted to know by September so he could start preparing himself for

the office. He said that if they weren't for him, he wanted to know that too so he could make other plans.

~~[illegible]~~ According to Nancy, Boyd first approached them a day before this & ~~she~~ indicated she thought Boyd was treated poorly. He said that McDonald said he had given his word when serving on the panel that reprimanded Boyd that if he ever got on the Court he would never vote for Boyd for Chief Justice. Boyd told him he could be neutral.

Afterwards Nancy and Overton go to see McDonald.

I was quite surprised Boyd finally did this. When we were having lunch Tuesday, he had asked me for my advice. ~~I told~~ him He asked if he should bring the subject ~~up~~ of the chief justiceship to the other justices. I told him that if I were he, I would go to see each one individually & be completely straightforward. He asked if he should talk to McDonald since McDonald is so dead set against him. I said yes, that he should see everybody so that it didn't appear he was sneaking around. I told him that if he wanted their support he would have to stop playing the role of politician with them, that they don't appreciate that. I said I would only converse with them about pending cases.

I was quite pleased that he acted on the advice that very same day. I had urged him to do this at the last election but he didn't. I think the fact that he may have cancer has been the big impetus. He is constantly worried about ~~what the other~~ whether he is going to be passed over again for chief justice. I think he now ~~[illegible]~~ feels that he has to get this worry behind him.

Thursday, June 30, 1983

Today Boys State visited the Supreme Ct. Boyd had it arranged so that ~~justice~~ the justices could speak. I noticed they were all there except Overton & McDonald.

Afterwards I walked over with J. Boyd to the Senate Chambers where Boys' State was having a memorial service for the ex-director, Mr. Francis.

When we came back, J. Boyd came into my office to tell me about his

health + his conversations with the other justice.

He began at the beginning telling me how he's been having a hard time breathing, but for awhile thought it might be sinus. But when they went to Va. the problem only got worse.

He went into great detail about the operation. He said when they removed the pollyps, they found one the size of an oyster. They kept calling him back for tests. He said they told Ann he had malignant cancer, but she didn't tell him until on the way to another doctor's appointment.

He explained how they took some bone marrow.

He went to see the doctor this morning. They could find no sign of cancer in his blood or bone marrow. So now he's supposed to go back to his first doctor to have the nasal passages rechecked. He said they may try to kill it with radiation. He emphasized that we should work harder, since if there is any sign that we are slipping, there might be pressure on him to resign should it get out he's not well.

Afterwards I realized he came to my office to talk because Ann was waiting for him up in his office.

Then he told me ~~[illegible]~~ about talking to each of the justices. He said Shaw said that he thought Boyd was treated poorly. Ehrlich listened politely, but didn't give any indication which way he stood. He said Alderman said that he could see Boyd's point.

The most interesting ~~[illegible]~~ conversation was with McDonald. He said McDonald ~~said~~ threw up his hands and said "Joe how do you get out of a rash promise". He explained how he promised the other judge on Boyd's panel he would never vote for Boyd for Chief Justice.

Boyd said he told McDonald that McDonald was picked because of his bias against Boyd. He also explained how the J.Q.C. was not an objective fact-finding body, but was politically motivated to finding Boyd guilty.

Boyd then asked McDonald about his trip to Russia. McDonald said he was leaving Aug. 11. Boyd asked if he

wanted to borrow his books + tapes on speaking Russian, McDonald said that would be nice, so Boyd dropped them off the next morning.

Boyd then went to see Overton + said "I know you're the kingmaker here + that you were a kingmaker in St. Petersburg." and went on to explain he wanted to know where Overton stood. Overton ~~didn't give~~ just said "O.K. I'll let you know in September".

Boyd then told Adkins, he talked to all the other justices and Adkins said good for him.

July 7, Thursday –

Tuesday J. Boyd buzzed me + asked me to come up around 11 a.m., Jim + Nancy were waiting there. He wanted to bring us all up to date on his illness. He started at the beginning, repeating much what we've heard before. He was to go in that afternoon to be X-rayed. He said that preliminary X-rays showed a cloud under his right eye. He had made an appointment to see the number one cancer expert in the state at Orlando hospital on Thursday. He asked me to check out the most recent books I could find about cancer from the state library.

He then repeated his request to work harder + get caught up so that there can be no complaints about our work sliding off.

After lunch I checked out six books. I could only find one which mentioned cancer of the nasal + sinus passages which J. Boyd has.

On Wednesday J. Boyd + I went to lunch in the basement cafeteria; We sat with Harlan Andes who J. Boyd knew from Lion's club. J. Boyd began launching into dull stories about being a marine during W.W. II. I noticed that neither Harlan nor I were really interested but we both tried to listen politely. I kept thinking how differently people would probably react if J. Boyd wasn't a Justice. He can go on and on about the most boring topics which had nothing to do about the prior conversation + which people really don't care about. I suspect the other justices don't pay him this deference + that is one of the reasons he doesn't get along with them.

I was also surprised when J. Boyd told Harlan that he hadn't been feeling well & that he was going to have an operation. I find it anomalous that he insists that Jim, Nancy & I keep quiet about his condition & not let on anything is wrong, while at the same time he tells everyone else he's not feeling well & that he's going to have an operation without specifically mentioning cancer.

This afternoon Nancy called me to say that J. Boyd saw the doctors in Gainesville. They were concerned about the clouds in the X-ray. Tomorrow they're going to take a scraping from the roof of his mouth. He'll come back to Tallahassee on Sunday.

July 16, Sat.

Last Monday, J. Boyd called Jim, Nancy & I in to tell us about his meeting with the doctors on Monday. To help explain he ~~drew~~ drew a picture of a face. Under each eye he drew two circles which he said were sinus passages. He filled the two under one eye with black ink saying that's what a healthy sinus looks like. Under the other eye he filled in the circle representing sinus passages with pencil and said that's where the cancer had spread.

He explained that they made an incision ~~[illegible]~~ in the roof of his mouth & cut up toward the eye in order to drain the passages. He said it was a very messy affair. He said that he had to go back on Thursday.

It was quite upsetting to see him. The right side of his face was swollen from the operation and he seemed a bit drained.

His daughter Jo Ann from Hawaii was with him. He told us that if anybody asked where he was to tell them he was working at home since his daughter was visiting.

On Wednesday, he came in for just a little while. He told me he couldn't sleep the night before and that he generally felt terrible all over.

Later I talked to Nancy who said Boyd seemed to a bit disoriented. She said she didn't know how much of his behavior was a result of cancer or a result of his being overly pessimistic. She said that Jo Ann said the doctors gave the best possible prognosis.

On Thursday afternoon a little after 5 p.m. Jo Ann called the office asking to speak to Nancy. I told her Nancy had left + inquired about the Judge. She said that next Tuesday he was going in for radiation treatment and that he would be going in Mon. thru Friday the next four weeks. She said the good news was that the cancer was localized ~~[illegible]~~ and that there was a 60% chance it wouldn't spread. She said that he would be in Monday for the conference and that he would then tell the other judges about his illness and having to undergo radiation treatment for the next month.

Monday, July 18 - 1983

Today I went upstairs just as the judges finished their conference and met with Justice Boyd. Everybody else was out to lunch. I asked how he felt. He said he was doing fine, then went on to explain what the doctors told him last week. He said he would have to go through radiation + that he had a 60-40 chance of survival.

He then told me he had told Alderman he had an important announcement to make at conference. At conference he pulled out about 6 pages torn out from a 4"x6" note pad + read a statement explaining how he had cancer + would be going through radiation. He ~~[illegible]~~ stated that the doctors told him that he would be back to work full time in September + expected to finish his term. He reiterated his request to know how the justices felt about the chief justiceship in September. At the end he said that his doctors were from Gainesville + just before he

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was elated. The last thing he ~~told~~ ~~him~~ said was "Go Gators."

He asked what I thought + I told him I thought it was a good speech. ~~He then asked whom the ju~~ I asked how the justices responded, and he said they didn't.

He then asked ~~how~~ what I thought about how they may respond in regard to the Chief Justiceship. I said that they would probably try to postpone any decisions until they see how things develope.

He talked a little about his daughter ~~going to~~ being accepted to FSU law school, gave me a couple of poems to read + discussed a case.

He returned to the topic of his illness, & in one solemn moment he said that he may not be back.

~~Jim Logue came in~~

Justice Alderman stopped in + mentioned that the conference would be delayed ~~to~~ this evening because J. Overton's flight to Fla. was canceled. Alderman was emotionless and very matter-of-fact.

Jim Logue returned from lunch + J. Boyd revised his speech. Nancy came back + J. Boyd talked on about what the radiation treatment would be like. He said that they would be shooting radium through his eye.

Then J. Adkins came in + said, "I've got a third vote for you, so all we need is one more." J. Boyd asked "who, Ray?" Adkins said "No, Lee."

He then took a seat + he + J. Boyd began pondering the possibilities. Adkins said he could talk to Ray but that he couldn't stand Alderman. He said not to pressure Shaw, but that Shaw said he would probably vote for Boyd.

Adkins said he might be able to get Overton to come over. He mentioned that Overton had been particularly solicitous the past few weeks. ~~He~~ Adkins explained that Overton had called him twice to suggest changes in a particular opinion.

Boyd said parenthetically, "How

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did we ever get along without Ben to tell us what the law is?"

Adkins said there was nothing worse than an ignorant man trying to act smart.

Boyd said who was Ben trying to impress.

Adkins theorized that Overton was hoping to get appointed to the U.S. Supreme Court. He said "Don't you remember how excited he got about Askew's winning the straw vote in New Hampshire?" (I now then recalled the "Askew for President" bumper sticker Overton has on his car.)

Before I left, Boyd gave me a notice of a pay raise all the research aides were getting. Earlier I had been notified that Barbara Yeater & I had been promoted to Senior Law Clerk with a $2,000 raise. The combined raises ~~increase~~ will increase my salary by about $3100 to a little over $25,600.00

Sunday, July 24th –

Last Wed. I went to the Government Bar Association's meeting. Justice Adkins was there in Justice Boyd's place to swear in the new officers. (Judith Brechner is now president, Whitney Strickland – Vice President and John Harris – Treasurer. I didn't know the new Secretary). Adkins told everyone about Boyd's cancer and 60% chance of pulling through.

It turned out a reporter was present & the story was aired on the radio news.

The next morning I told Nancy what Adkins had said. She said she had gotten a call from a reporter & didn't know what to say.

She called J. Boyd & I listened in on the extension in his office as he described his treatments. He said they had to clamp his right eyelid open & shot radium through his right eye. He said he felt really drained afterwards. He did sound chipper. He then said he talked to Sam Miller (from UPI) & that he wanted Nancy to call the other

Recovery ... of history from Florida 306

wire service so as not to appear to be favoring one over the other.

I called AP and explained the situation just as J. Boyd described it. He has extra medullary plasma cytoma. I was quoted in the next morning's Tallahassee + Jacksonville newspapers.

(Before Nancy came in Judy Lanfesty from Tampa had stopped in for a visit, I had told him about Justice Boyd's condition.)

Thursday night there was a covered dish supper + meeting of trustees for Fla. Supreme Court Hist. Society. Justice + Mrs. Adkins had said they would come but didn't show up. I suspect that maybe ~~they didn't~~ Justice Adkins didn't want to come since J. Alderman was there.

Before dinner I asked J. Alderman how he enjoyed being the Chief Justice. He said that it was different + interesting but that he could see how it would get stale after awhile. I remarked how it would be difficult to switch to the role of a politician in working with the legislature. He said it wasn't difficult, just different.

When I asked if he had any vacation plans, he said he was going the Chief Justices' conference in Savannah, Ga., then to the ABA convention in Atlanta, Ga.

Today I called J. Boyd at his home in Shell Point. He sounded in good spirits. He said the last doctor he spoke to said that his chances of pulling through were 70% now. He said he might be back in time to listen to a few oral arguments around 1st of Sept. He said first thing he was going to do was go around + ask each of the justices if they were for him or against him for Chief Justice.

Today I also found out that my landlady, Louise Pecatte, died from bone cancer.

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Received ... of history from Florida 506

Tues, Aug. 2

Today I had a job interview with Pat Wiggins at the P.S.C. It turns out he used to clerk for Justice Overton (he had a picture of Justice Overton hanging up in his office.) When he found out J. Boyd & I had written a history of the Court, he remarked that J. Boyd may not be the best person ~~to~~ to have as a co-author on the subject because of the things that happened in the early 70's.

He said that when Boyd's turn to be chief justice came up, Adkins + B.K. Roberts favored him whereas England & Hundley wanted Overton. The deciding vote would be cast by Hatchett who had just been appointed. Wiggins said B.K. Roberts went to see England & said he didn't want to see a squabble over the chief justiceship & that he didn't want to spend his last term as an associate justice, so he would be willing to serve as Chief Justice. According to Wiggins, England poked B.K. in the belly and said "You're the last person I want to see as Chief Justice."

~~Pat~~ Wiggins also said that once he walked out into the Supreme Court parking lot with J. Boyd, just as J. Overton had driven off. Boyd said "You know your boss has never asked me to speak at a gathering. He & some of the other justices don't believe I represent the Court." Wiggins replied "What difference does it make what they think as long as the people think you represent the Court. As long as you are a justice you do represent the Court." Wiggins said Boyd seemed very touched by his reply.

Wiggins also enquired if I had written about the aides. He said that once he got a phone call from a friend who was petitioning the Court to waive a Bd. of Bar Examiners ruling that he filed to late to take the exam. According to Wiggins the Bd. had made a clerical error which made his friend file late. He said that he often got such calls since he was the Chief Justice's aide. He said Overton told him to walk the file around. (~~there was a time~~ (the exam was being given in a few days which prompted the friend's telephone call.) Wiggins said he did and the justices voted to deny the

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petition. Thinking Sundberg had already voted & the matter closed, Wiggins told Sundberg that the judge made a mistake in denying the petition. Sundberg told him to come up to his office, reread the petition & agreed that it should be granted. Sundberg called England & told him to come up and witness this ex parte communication & reconsider his vote. England walked in, hot under the collar, & began to criticize Wiggins for what he had done. Wiggins told him he only did what the justices had asked him to do. First Overton told him to walk it around, then Sundberg told him to come up and explain what he saw about the case. Wiggins said he returned to his office ~~& felt~~ feeling the lowest he ever felt. England came down to apologize & explained that he got angry because he felt the biggest problem at the Court was research aides trying to do favors for friends & acting upon ex parte communications. ~~He~~ England also said he felt it was wrong for Overton to have had Wiggins walk the file around.

Wiggins told me that despite all the hostility among the justices at the Court, Overton never said a critical thing about any of the other justices. He said Overton never gossiped or let on that there were ever any ill feelings.

He said that once Overton told him to check with B.K. Roberts about something and Wiggins replied he'd rather not because he didn't trust B.K. & didn't think B.K. liked him. Overton acted surprised & asked if B.K. ever said anything mean to him. Wiggins replied that no B.K. was always extremely polite & explained that in the South if a guy liked you he would call you a son-of-a-bitch, but if he didn't he'd always act extremely polite. ~~He~~ Wiggins asked Overton if he'd ever noticed how B.K. would always shake Hatchett's hand & pat him on the back & be real nice, but how he never did that with Jimmy Adkins. Wiggins said Overton threw back his head & laughed and said "I can see your point."

Recollections of history from Florida 506

Mon, Sept. 5

The Court reconvened & listened to oral arguments all last week. I went upstairs early Monday morning to talk to J. Boyd. Around 9 A.M. I heard clapping down the hall, & J. Boyd loudly saying, "Remember me? I'm Joe Boyd. I used to work here." He came in & went over the agenda quickly with Jim. He told us all that week he'd be there in the morning to listen to oral arguments but would excuse himself at 12:30 to go to Gainesville to finish up his treatments.

Tuesday morning I ran into J. Overton in the parking lot. He asked me if J. Boyd was coming in & I said I didn't know. He told me that they (he & some other justices) tried to convince J. Boyd not to come to work so early, but rather save his strength. He said the only really important thing was a hearing on a stay of execution early Thurs morning.

Apparently Boyd ignored this advice as he came every day. He would be in the office only a few minutes each morning before having to go to the bench, so I didn't get to talk to him much. Wednesday morning when I went upstairs, he was talking to one intern telling him how hard he would have to work. Much to my chagrin, he also told him that he didn't trust some of the other justices.

Nothing was said about the Chief Justiceship. I assume the matter will be brought up at conference tomorrow.

Thurs. Sept 8

I didn't go into work yesterday because of a sprained ankle. This morning I buzzed Nancy & asked her if anything had happened at conference about chief justiceship. She said no, that J. Boyd was going to wait a couple of weeks.

Later in the morning J. Boyd came in. We spent about an hour talking about a death penalty case, that's up here after a retrial following the Court's reversal of 1st conviction. Boyd tended to believe there was insufficient evidence.

At one point while he was standing behind his desk, looking in his briefcase, he temporarily lost his balance. He quickly steadied himself by placing his left hand on the desk. That & the fact that he's still wearing sunglasses to hide the redness behind his right eye are the only visible clues of his travail.

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Sept. 17, 1983 - Saturday

This past week, things have seem to have gotten back to normal. J. Boyd seems to have completely recovered.

On Wednesday morning I went in to talk to J. Boyd about Citizens Coalition for Growth Management of West Palm Beach v. West Palm Beach. I was especially interested in this case because I had worked for Bob Rhodes who represented Florida Home Builders Ass'n who filed a brief as amicus curiae. I wanted to write a detailed opinion explaining the intricacies of standing & abolishing the "special injury" rule. Boyd said as a commissioner he had to put up with a lot of people who were always complaining about zoning decisions. He considers them trouble-makers & was steadfast in his opposition to granting them standing. He said to write a short opinion, since the other judges would probably return it three times anyway for rewriting.

Afterwards Boyd & I drove to the law school & picked up Phil Southerland. Three of us went to lunch at Jerry's. We stayed there for three hours. Boyd told Phil about his cancer, then talked about his book on politics. Ultimately, as usual, he began talking about the conspiracy that existed to kick him off the Court. Gets really boring.

Thurs - Sept. 22

Yesterday I went to the Government Bar Ass'n's luncheon with Justice Boyd & Shaw & Justice Shaw's law clerk Jim Rogers. We drove over in J. Boyd's car. He has an 8-track tape player sitting on the floor that had a Lawrence Welk tape in it. At one point the player, which wasn't secured, pushed into the front seat & the tape started playing. Funny thing was that it played in slow motion. Obviously the tape had been ruined from sitting out in the heat. I wonder how long its been in that condition.

At the luncheon former Justice Stephen O'Connell spoke about the Tort Reform Commission.

Before he spoke I introduced myself & began talking about the Supreme Court Historical Society.

I also talked at length with Justice Shaw about the Society. He said he didn't want to join because he had so many other priorities. I then told him that I was looking for a job. He suggested the State Attorney or Public Defender's office. He said he started out in private practice before going to the State Attorney's office, but that it was impractical.

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~~When~~ Before we went, I was in Justice Boyd's office. He had a stack of old letters he had written to his wife while he was ~~overseas~~ during the war. I suggested he give them to the Supreme Ct. Hist. Society, but he didn't like that idea.

While I was there, a Sheriff's deputy came in + gave him a subpoena to appear at a deposition set for today. Some guy is suing B.K. Roberts + his law firm. Boyd says he has no idea what it was about.

Sat. Sept. 24

Yesterday, Nancy + I went to lunch with J. Boyd + his wife. Mrs Boyd drove us in her new Cadillac to Simon Malone's. Nancy commented how nice it rode. Mrs Boyd said they had it less than a year + had already put 26,000 miles on it. ~~J. Boyd started his back-seat driving~~

As we stopped at the light Mrs. Boyd asked us if we recognized a man half block away. J. Boyd said he couldn't see that far. A block later he was telling Mrs. Boyd to ~~watch~~ slow down + watch for the stop sign. She shot right back to stop his back-seat driving since he had just said he couldn't see.

She proceeded to tell us that when she picked him up from the hospital, she could tell how he felt by how much he criticized her driving. She said after his operation, he didn't say a single word all the way back from Gainesville.

As we drove into the parking lot, another Cadillac pulled in. The Boyd's knew the couple + introduced us to them. They were Mr. & Mrs. Bud Dickinson. Bud Dickinson was a former Comptroller who had, like Boyd, been involved in a scandal. They joined us for lunch.

J. Boyd & Mr. Dickinson dominated the conversation, sharing stories of their surgeries, Marine Corps experiences + political exploits.

Afterwards, J. Boyd told us that he had almost been appointed Comptroller instead of Dickinson. He said that when Haydon Burns was elected Gov., he promised Dickinson the 1st cabinet post. However, he had to renege on that when an opening for Ins. Commissioner became available. There was a heavy lobby effort for someone else. Burns told Boyd he would have to appoint Dickinson to the next available

Trustee meeting 506
Justice Emp-

Sat. Oct. 22-

I have been a little lax about keeping this up to date; I've been spending a lot of time + energy looking for another job, so I've forgotten to keep this journal current. However, I'll try to recall some of the events that have happened this past month.

First of all somebody at the Florida Bar called me the 1st week of October to tell me the reprints of our History of the Supreme Court were ready. They delivered 2,000 copies to my office on Wed. Oct. The next day I attended a CLE conference at the Florida Bar on Federal Civil Practice. That afternoon - I called a firm in Tampa + they said they wanted me to come down for an interview the next day. I left work early + drove to Tampa + stayed with my family for the weekend.

When I got back I talked with Justice Boyd about delivering copies of our article. Kenny, the runner at the court, + I delivered 400 copies to Dr. Millett's office at the Commissioner of Education's Office for them to be delivered to the state's high schools + colleges.

~~Over, ...~~ ~~that same week before last,~~

That same week when I went up to talk to J. Boyd about a case, he asked me to join him for lunch. I believe it was a Tuesday or Wed. Anyway the Court had just held conference on the Mason case + our office was to get an opinion out the next morning. Jim stayed at the office to work on the case + I went to lunch with Justices Boyd, Adkins, Shaw + Overton. On the way over Justice Overton talked about sitting in the student section for the 1st time in over 30 years while watching a Univ. of Fla. football game. He got a real kick out of it. He talked about what a great quarterback + team leader Wayne Peace was.

I asked him if he played football. He said he was a tight end in high school, but played basketball in college. He said his worst injury in football was a sprained ankle, whereas he got stitches around his eyes from playing basketball.

I then asked him if he had heard of the firm Milam + Sawyer, the one I just interviewed with. He had not. However, Justice Adkins said he knew Richard Milam

to Hist. 50C

We went to the 10th floor snack bar. Justice Adkins + Overton got salads, Boyd a well-cooked hamburger, + I forgot what Shaw had.

The conversation consisted a little more about football, then Boyd changed it to the presidential race.

At one point Adkins talked about retirement + mentioned something about double dipping (receiving retirement benefits from the state + social security from federal govt.) Overton made some comment about how he had to have his application in sometime before Sept. according to a recent memo.

All in all it seemed like a warm + friendly conversation. All through it, I wondered if Overton was trying to make overtures to the faction.

On Oct. 17 - Mon. - we had a meeting of Bd. of trustees at the Brokaw - McDougall House. Justice Ervin showed up for the 1st time. After the meeting, he came up to me + thanked me for the good job I was doing. He asked for some stationery so that he could write to some of his friends. But Neal gave him some at the meeting. On Wed. he sent over a runner to pick up another 100 pieces. Then yesterday his secretary called saying he needed more, that she had listed over 300 people he planned on writing.

~~Today~~ monday morning I went upstairs to talk to Justice Boyd about a case. He asked if I had heard anything about the chief justiceship. I said no, tho I had been planning on asking him. He said he went to talk to Alderman + reminded him of what he said about wanting to know by September. He said ~~Alderman didn't know~~ he told Alderman that he didn't have to know until November. Boyd mentioned there was a judicial conference or program he was going to plan on attending next summer. Boyd said that Alderman said he didn't know where he stood, that if the vote came up the next day, he wouldn't know how to vote.

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Boyd mentioned how McDonald was against him because he beat his suite mate + how Overton was against him. Alderman said he only wants to do what was best for the Court. Boyd said that's what Sundberg always said, but that what he did was always best for Sundberg.

Boyd mentioned to me that Alderman + Overton were always disagreeing. He said just that day they were going to be discussing an opinion Boyd wrote, with Alderman defending it against Overton's attacks.

Tues. Nov. 1

Today J. Boyd, J. Adkins, Adkins' research aide Janice, and I went to FSU law school at noon. J. Adkins + Boyd talked to Phil Southerland's Conflicts of Law class. They had a very good presentation, mostly a question and answer period. They both denied that the Court favored insurance companies + both claimed they were for the people. J. Adkins mentioned how as a plaintiff's lawyer, he often went up against J. Ehrlich through the years + that when Ehrlich came on the Ct. Adkins told him he would have to be objective + agree with him now.

Adkins gave more scholarly answers whereas Boyd gave pragmatic, layman-like views.

At one point Adkins mentioned that his dad was a lawyer + that starting at the age of 10 he attended court regularly and sat on the steps between the judge + the witness box. He said that although he didn't understand everything going on, he was fascinated.

Afterwards Adkins, Boyd, Phil + I went to lunch on the 10th floor of the Capitol.

At one point I mentioned that an atty from Miami (John McMath) had donated $5,000 to the Historical Society. Boyd said that McDonald had stated that he felt the Society shouldn't accept anything over $5,000. ~~Boyd said~~ When I asked why, Boyd said McDonald felt ~~the society was~~ that he had a big influence over the society.

Larson Sinclair visited the library today. I stopped by + said "hi" as he was talking to Brian Polley, Jo Stanley + Jo Brigly. It has been months if not a year since I've seen him last.

1984

Thurs Nov. 3 -

This morning I called Paul Hill at the Florida Bar to see about taking some copies of our History article for him to give to his staff. He said he'd like to have an autographed copy + suggested giving ones to Jack Harkness and the president of the Bar William Henry, who happened to be in town. Paul mentioned that Henry was going to be up at the Court in the morning.

I went upstairs + got J. Boyd to write notes + autograph copies + asked him if he was going to be meeting with Henry. Boyd didn't know anything about it. He had Nancy call Chief Justice Alderman's office. She found out they had just left his office to go meet in the conference room. Boyd told me to grab some extra copies + follow him down there. He got out his keys, but had a hard time trying to unlock the conference door. Finally Ottie Davis ~~unlocked~~ opened it from inside.

We quickly stepped in + Boyd addressed the group, saying he wanted everybody to have a copy of our article. He introduced me to Judge Lotts, a couple of others whose names I didn't catch, and Mr. Henry. I handed each of them a copy + we quickly split. I ~~was~~ thought the whole scene was amusingly embarrassing.

Nov. 11, Friday -

Last Wednesday I went to hear oral arguments in the case of The Florida Bar v. Virgil D. Hawkins. The Florida Bar brought a grievance action against Hawkins for incompetence in handling a criminal case. Hawkins, who will be 77 Nov. 28, said it was his first criminal case + admitted he may have admitted a mistake. Although he & bar counsel + referee agreed that he should be put on probation + receive a reprimand, the Board of Governors sought to suspend him.

It quickly became apparent that the Bar was trying to trump up the charges. One thing bar counsel agreed was that Mr. Hawkins didn't interview ~~the~~ present defense witnesses. J. Boyd asked him if there were any who could have testified. When Bar counsel admitted there were none, Boyd said they couldn't ~~be~~ nail him on that then. Overton pressed bar counsel on why the Bar seemed to be reneging on their earlier agreement.

When Hawkins got up, he eloquently and forcefully explained the circumstances of the case. He said he didn't depose state witnesses because his client had no money. The judges sat back + listened. At the

and J. Alderman, asked him if he were still ~~[illegible]~~ willing to ~~[illegible]~~ receive probation + Hawkins said he was.

Afterwards Hawkins left the courtroom followed by a score of ~~[illegible]~~ students who had attended the oral argument and a few news reporters. We all stood in the Rotunda, and Hawkins answered questions from several persons. He said that the charges were brought by members of the Dade City Bar, who were working underground to get rid of him.

Later I asked J. Boyd what the justices thought. He confirmed my impression that they thought the Bar was wrong + were just going to place him on probation.

Nov. 17 Thursday.

Yesterday morning we held a surprise birthday party for Justice Boyd. Nancy bought a ~~[illegible]~~ 2-tiered lemon cake from Barbara Maxwell who works in the clerk's office. Jim came in a few minutes before 10 a.m. with plates + napkins. (The three of us split the cost.) I went in + talked to Justice Boyd while Jim + Nancy got things ready. Nancy sent a memo around Tuesday ~~[illegible]~~ everyone working on the 1st + 2nd floors to come in around 10 a.m.

While talking to me J. Boyd, told me about a capital case he had assigned to him one month after opening his practice. He said his client was accused of raping a 4-yr old girl and that there were 9 ~~[illegible]~~ eyewitnesses. He said he spoke to the prosecuting attorney + asked them not to press the death penalty since it was his first client. He said they were sympathetic and said they wouldn't ask that the death penalty be imposed, but that of course it would be up to the judge. Boyd said his client was quite relieved.

At that point several aides + secretaries came in + J. McDonald. Boyd made some remark about McDonald's friend on the St. Pete Times, referring to an article ~~written~~ ~~published in the~~ paper last Sunday. McDonald ~~stated that they called him a curmudgeon,~~ ~~and when he looked the word up~~ jokingly replied he wasn't so sure they were so friendly. McDonald said they called him a curmudgeon + when he looked the word up he found out they were calling him a grouch. Ehrlich's aide Virginia remarked how the paper called McDonald the closest

thing to a bleeding heart + joked how we all knew he was soft, deep down inside. Nancy asked ~~Joe~~ McDonald to lead us in singing happy birthday. We did so in unison until it was time to insert Justice Boyd's name into the song. McDonald in his booming voice said Joe while most of the aides sang Justice Boyd. There were several chuckles as the song concluded.

Later J. Ehrlich appeared at the doorway. Boyd stood up + referred to him as your honor + offered a piece of cake which Ehrlich declined. Boyd asked him if he wanted tea or coffee, + Ehrlich replied no, but that he would take some champagne. J. Boyd asked him to tell some jokes, but Ehrlich said he couldn't because there were ladies present. Then J. Ehrlich said he just wanted to see a multi-millionaire, again referring to the St. Pete Times article, and said that with all that money J. Boyd should buy some silk stockings. (An ~~amusing~~ witty remark referring to Boyd's often use of the phrase "silk-stocking dandy")

Boyd said he had never seen any and that he would like to see Ehrlich's. Ehrlich turned serious for a moment + explained the last time he saw any was 50 years ago in his father's dry goods store.

December 3, 1983, Saturday

Last Wednesday Sullivan was executed at 10 a.m. Because I had stopped for gas, I was late to work. I arrived in the parking lot around 8:30 a.m., same time as Dottie Davis + Bob (Overton's aide). The three of us tried entering the back door on the south side, the entrance used by all the justices and most aides who park on the south side, only to find the doors locked. There was a typewritten sign saying to use the door on the north side. Dottie said she didn't want to walk around + started knocking. We could see the door to Linda's (the Marshall's secretary) office was open. Tony (the Marshall) came out and opened the door, making jokes about our being late. Later I realized the locked doors were extra security precautions in case of demonstrations against the death penalty.

I went upstairs to talk with J. Boyd as I noticed his car was in the parking lot. He said he had been there since 7 a.m. He said all of the justices came early to be on hand in case of any last minute petitions, except for Alderman who was in South Florida for a

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meeting concerning the need for additional judges in the 11th Cir. Boyd said Adkins was quite irritated about Alderman's not being present. Around 9 a.m. the justices gathered together in the conference room, in case any last minute decision was needed.

There were no ~~[illegible]~~ demonstrations at the Court. I noticed 3 police cars were parked outside the Capitol. The next day the newspaper mentioned there was a demonstration inside the capitol.

While I was with J. Boyd, he mentioned that a couple of the justices had a couple of comments on our opinion in Bottoson v. State which was going to be discussed at conference on Thurs. (The conference on Mon. was postponed to Thurs. because Overton went to a conference in Nevada on Mon.) I spent the day searching the issue of a judge's discretion to deny a motion for mistrial where unadmitted evidence had been inadvertently allowed to go into the jury room. I found some cases + wrote two paragraphs.

~~On~~ Thursday morning I showed J. Boyd my redraft + he said to have the opinion corrected + circulated to the justices before conference which began at 1 p.m. Late afternoon I went upstairs to see what action was taken. Boyd said the Justices agreed to the revision + the opinion ~~went out~~ was going to be released. I often suspected that the judges approved opinions without checking the cases cited, but now I'm sure.

Thursday morning, we had a little office birthday party for Jim.

Boyd mentioned he was going to be getting his portrait done. He said that, at first, he told Alderman, he didn't want it done because he didn't want his portrait hung up along with his enemies. Alderman said that after all the trouble he went to to get portraits of some of the justices ~~[illegible]~~ who served a hundred years ago, why would he want someone 100 years from now to go to the same trouble. Boyd said he talked to his family + they encouraged him to get it done, that he ought to think of Thornal and Drew + his other friends he served on the court with.

Boyd mentioned that the artist, Miss Jet (sp?) had said that she did do a portrait of Ervin but that, it wasn't the one hanging up in the Courtroom.

Adk

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Dec. 14, Wednesday.

Today J. Overton's office had a birthday party for Justice Overton at the coffee area on the 2d floor. His aides Rob + Mike made cookies + fudge.

Later in the afternoon, I learned that one of the security guards, Mayo Blount, had died of a heartattack at home that morning. He was to leave for Houston today to visit his grandchildren.

Earlier in the week, I saw a memo from Alderman informing the justices that James Daniel another security guard was ~~[illegible]~~ dismissed because of being arrested ~~[illegible]~~ for grand theft + ~~[illegible]~~ dealing in stolen property.

Dec. 20 Tuesday

Today we had our Xmas luncheon. Tony Smilgin smoked a turkey. While standing in line I talked with Pat Alexander who was visiting. We sat at a table with Overton's secretary Lou, Mike ———, J. Boyd + Tony.

J. Boyd gave me a 20^{00} gift certificate to Shyfor's + a flashlight for Xmas.

Jan. 8, 1984 –

I returned from vacation last Mon. night. On Tuesday morning I returned to work + talked with J. Boyd. He told me that while I was gone J. Adkins found out he had cancer in the mouth. He went to Miami to have it cut out. J. Boyd said Adkins lost all of his teeth. Apparently he will not be undergoing radiation or chemotherapy treatment. Adkins missed court conference on Thursday.

Boyd was also very reflective. He ~~asked~~ gave me a hypothetical about a funeral director who was in partnership with a woman, buried her before an autopsy could be formed. He asked me if the fact that the man stood to gain economically by her death was sufficient evidence to convict him. He then told me that such a situation occurred concerning a man named Nobles from Lakeland. Apparently Nobles was the last man executed before Fla's death law had been declared unconst.

Boyd said when he first came to the Court, he asked J. Drew, who had written the opinion, about the case, + Drew replied "~~[illegible]~~ I don't want to talk about it, and don't ever bring it up again."

What made Boyd think about the case

again was running into a friend of Nobles at a funeral last week, who claimed that he had dinner with the Nobles when Mr. Nobles returned from the funeral & it didn't seem as though he were acting unusual.

Boyd said he had also once talked with an electrician who, ~~while~~ working in the county jail, had met Nobles. The electrician claimed that he had taken fan out leaving a whole in the wall, not thinking anyone was present, Nobles tapped him on the sholder & asked if he was going to leave the whole there. When the electrician ~~said~~ joked about Nobles being able to escape if he did, Nobles stated no, that he was going to walk out the front door a free man when he left.

Boyd said he wanted to check out the file on that case again & determin if there were sufficient evidence to support a conviction.

On Thursday, J. Boyd showed me a page out of his book on politics. He told a story his dad told him about the hanging of two men. Boyd ended the story, ~~about~~ saying he was afraid of sheriffs.

Wed. Jan 11, 1984

Yesterday I attended the orientation session for the semester's interns. Barbara Sanders was assigned to our office. I showed her around & then took her upstairs.

J. Boyd told a story I've heard several times before, as he usually tells to every intern to stress the point they don't have to work on anything they're uncomfortable with. He said once she had a woman intern at a time she was assigned to write an opinion declaring the adultery law unconstitutional. He said the Court wanted to discuss all the other sex crimes. He said ~~his~~ aide assigned it to a women intern. When Boyd found out, he told her she didn't have to work on that case, but she replied she liked doing it. When the opinion was circulating several justice placed question marks on their vote sheets & asked for a conference. At the conference Boyd told them that the pretty intern they've seen in the halls is the one who wrote the opinion & if anyone of them thought they knew more about sex than she, they should dissent. They erased their question marks

and signed on the opinion.

This morning J. Boyd told me J. Adkins had an attack last night & was ~~[illegible]~~ in intensive care at Tallahassee Memorial Regional Medical Center. In the afternoon I heard he had improved considerably. I called the hospital after work & talked with his daughter-in-law. She said J. Adkins was in satisfactory condition, but that he couldn't speak because he was hooked up to oxygen and that he wasn't receiving visitors.

Friday, Jan 20, 1984

Wednesday I went to GBA luncheon with J. Boyd, Otti Davis, Jim Rogers and Virginia ______. J. Overton spoke about proposed revisions to article V. He also told the group that J. Adkins was improving. He said Adkins had a blockage (not a tumor) in his intestinal tract, which was removed.

Today Ken Kelleher came in the office. He's recently found out he has cancer, & J. Boyd has been trying to help him find funds to pay for an operation. He had a big lump on the right side of his mouth. I called J. Boyd at home & let Ken talk to him. Then Ken said he couldn't wait for J. Boyd to show up and left. I was pretty much taken aback as Ken said doctors at Shands told him he had six month to live. He seemed weak & teary eyed. I then tried to track him down to offer him a ride. after I saw him walking North on Duval, and I went to my car. I caught up with him in front of 1st Baptist Church on College & gave him a lift to cancer clinic.

Afterwards he came back to the office & J. Boyd gave him $10.00 for cab fare. He was talking about going to New Orleans.

Boyd asked me what I heard about the Chief Justiceship. I told him Rick Whitworth told me a couple of days ago that J. Adkins thought he had the vote lined up for himself. I said Adkins seemed to be on good terms with Ehrlich. Boyd said he would side with Adkins.

Jan. 26, 1984

Today Anthony Antone was executed. The justices were at the building at 6 a.m. in case there was any last minute motions. Again J. Alderman was out of town. (I believe he was attending the Florida Bar mid-year conference).

Yesterday I talked with J. Boyd about a couple of cases, one about whether a utility should depreciate contributed property and the other about the excess profits law. I tried talking Boyd into accepting a new principle allowing for retroactive laws. He didn't go along with that, but wants the insurance companies to refund excess profits, by finding the 1977 law constitutional.

He then asked me for my opinion on the ~~Boyd~~ chief justice race. He told me he was at a barbeque the other day & was sitting across from Lt. Gov. Mixon. (Boyd ~~also~~ said that Mixon was a college buddy of McDonald's & that he was influential in getting Graham to appoint McDonald.) While they were talking J. Overton came up & Mixon asked him if Antone was going to be executed. Overton explained that they would have to get a stay from U.S. Supreme Court Chief Justice or acting Chief Justice, who would be the next senior member. When Mixon asked if Fla. Supreme Ct ran the same way, Boyd piped up that there was a rule that the Chief Justiceship rotated on a seniority basis, except for ~~the~~ Boyd. He said Overton was a little flustered.

Boyd thought that by making his views known to Mixon, Mixon might put a little pressure on McDonald ~~to~~ to vote for Boyd. In the same breath Boyd says that he knows McDonald will never vote for him.

Saturday, Feb. 18, 1984

Last night the Fla. Supreme Ct. Hist. Soc. held its 1st Annual Dinner. It was a smashing success.

Ray Reynolds & Leanne Frivesh did most of the planning. Leanne made arrangements with Andrew's 2nd Act to do the catering, and Ray was supposed to do the programming. However, C.J. Alderman, Dottie Davis, & Nancy

Oduam became quite concerned earlier this week when they found out that Ray had not lined up any guest speakers nor had a printed program. I met with Nancy, Brian Polley, Ottie & Pat Reed in Ottie's office Wednesday afternoon. Nancy had an idea for a printed program that would include a menu of a dinner Jefferson Browne gave for an incoming governor. Pat called LeAnn & found out what the meal was going to be. We decided to get in touch with Ray before preparing a program.

Ray came over Thurs. morning & met with us. He said he thought the dinner should be just a social affair & that since nobody had agreed to speak, there was no need for a program. He said he didn't mind if we did one though. Nancy said she felt it was imperative that there be some kind of program, so we decided that Frank Graham would give a few remarks about the society and that C.J. Alderman would call on the former justices to give a few words.

Friday afternoon I met with the acquisitions committee, which met in the Brokaw McDougal House. John Parkhill, Justice Parkhill's youngest son, had driven up from Tampa was present & taped some recollections of his father. Later I helped Brian move photographs & paintings to be displayed in the Senate Chambers.

I arrived a few minutes after seven. Pat Reed had bought some name tags which C.J. Alderman & Frank Graham was a good idea, but which Ray & I did not like.

A film of Gov. Collins' inauguration was shown in the old Supreme Ct. chambers. All seven justices & their wives showed up. Former justices O'Connell, Carlton, Roberts, Hatchett, Sundberg & Ervin were also there. A photo was taken of them all.

Shortly afterwards I asked Justice Carlton about it & he seemed a bit irritated. He complained that they didn't have their act together & kept delaying until O'Connell threatened to leave. He said that O'Connell had to catch an 8 o'clock flight & that it was twenty minutes till, so they quickly snapped a photo. For the most part, I found myself disliking Carlton. I found him to be somewhat arrogant.

Justice Roberts was also somewhat aloof. I was slightly offended when he did

not thank me for [illegible] an article, (at his request) he had written about the Fla. Su. Ct.

I did enjoy talking with Justice Ervin, Judge Shivers & especially Judge Zehmer & his wife, who have only recently moved here to Tallahassee.

~~My friend Justice~~

I sat at a table with the curator Pat Whitman & Robert Scott, Justice & Mrs Ehrlich and Judge & Mrs. Zehmer.

After the salad C. J. Alderman introduced all of the present justices. When he mentioned that J. Adkins was an aide to the Court in 1939, J. Boyd yelled out, "You mean 1839."

After the main course, Alderman asked the former justices to come up & say a few words. J. Roberts was first & gave several amusing anecdotes. It seemed a bit long, but largely because they had not begun serving dinner until after 8:30 & it was already past 9. He spoke while dessert was being served, & several people began spinding at their carrot cake before he finished.

Justices Ervin, Hatchett & Carlton gave much shorter speeches.

Justices O'Connel & Sundberg did not address the crowd as they already left.